



# San Diego City Attorney **MICHAEL J. AGUIRRE**

## **NEWS RELEASE**

**FOR IMMEDIATE RELEASE: March 16, 2006**

**Contact: Maria Velasquez, Communications Director (619) 235-5725 (pager & voicemail) [mvelasquez@saniego.gov](mailto:mvelasquez@saniego.gov)**

### **CITY ATTORNEY FILES NEW COURT MOTION, CITING EVIDENCE THAT THE CITY'S MASSIVE PENSION DEBT WAS UNLAWFULLY CONTRACTED BY CITY OFFICIALS**

**San Diego, CA:** The City Attorney's Office today filed a motion for summary judgment and asked the Court to review compelling evidence proving that certain pension benefits, granted by City Officials between 1996 and 2002, violate California's conflict-of-interest and liability limit laws and should be set aside. City Attorney Michael Aguirre is asking Superior Court Judge Jeffrey Barton to make a ruling on June 23<sup>rd</sup>, seven days before the City Council must make its annual payment to the San Diego City Employees' Retirement System pension plan, which includes hundreds of millions of dollars that are connected to the alleged illegal pension benefits.

"We are hoping the Court will rule in our favor and rescind these illegal and unfunded pension benefits" said City Attorney Aguirre. "A Superior Court Judge has already ruled in the District Attorney's criminal case that there is enough evidence to go to trial on these violations based on California's conflict of interest laws."

The following court action is sought based on violations of California Government Code section 1090's conflict of interest laws; the California Constitution Article XVI, section 18, which requires a City to seek approval of voters before creating certain financial liabilities; and the San Diego City Charter's section 99 Liability Limit Law, which establishes the "pay as you go" principle as a cardinal rule of municipal finance.

- A. Void the Legislative/Elected Officers' Retirement Plan pension benefit increases that were granted in 2000 by Councilmembers. These benefits were approved without funding; reduced the age at which council members' benefits would vest, from 60 years old to 55 years old; and reduced the vesting requirements from ten years of service to four years of service.
- B. Rescind new pension benefits that were granted under the 1996 Manager's Proposal I, which include an increase in the retirement factor used to determine retirement benefits; purchase of service credits up to five years which were purchased below market value; and the Deferred Retirement Option Plan (DROP) that allowed a member to "retire" from the City and begin earning his or her retirement benefits while remaining employed by the City.

(MORE)

- C. Rescind new pension benefits that were granted under the 2002 Manager's Proposal II, which increased pension benefits without a funding source; and created the so-called "Presidential Benefit" whereby Presidents of the City's four recognized labor unions could have their Union Presidents earnings counted as though they were City salaries for the purposes of retirement.
- D. Void the City Council amendment to the 2002 Legislative/Elected Officers' Retirement Plan that granted increased pension benefits to City Council members who had already retired.

"My job is to protect the City and the taxpayers," said Aguirre. "We need to rescind those benefits that are in violation of our laws before we can go to the taxpayers and ask them to help us raise revenue to pay for the legal pension benefits that our City employees are entitled to."

Should the Court rule in favor of the City Attorney's motion for summary judgment, there would be no need for a trial. In addition, the issues contained in the motion could be settled in mediation before the Court rules on June 23<sup>rd</sup>.

###